

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

N.N., a minor, by S.S., the parent and next
friend of N.N., individually and on behalf
of others similarly situated,

ORDER

Plaintiff,

08-cv-581-bbc

v.

MADISON METROPOLITAN SCHOOL DISTRICT,

Defendant.

In this case brought under 42 U.S.C. § 1983, plaintiff N.N. contends that defendant Madison Metropolitan School District violated the equal protection clause of the Fourteenth Amendment by using race as a factor to approve or disapprove student transfer requests. The parties have responded to the court's order directing them to submit a joint class notice, or, if they could not agree, to submit their own versions of the notice. Three versions of the notice are before the court. Plaintiff submitted her notice first, followed by objections from defendant, which were followed by a revised notice from plaintiff in which plaintiff attempted to narrow the disputes. Defendant has not responded to plaintiff's most recent version.

In a letter accompanying the most recent version, plaintiff says that the only remaining dispute is the extent to which the notice should explain defendant's theory of defense. I agree with plaintiff that it is sufficient to say that defendant "has denied that it is liable for the claimed violation of the Constitutional or statutory rights of N.N. or other members of the proposed class, because MMSD claims it was compelled to apply its 'racial imbalance' policy by state law." Further details of defendant's position may wait until summary judgment.

Upon review of the remainder of the notice, I conclude that it satisfies the requirements of the Fed. R. Civ. P. 23.

ORDER

IT IS ORDERED that plaintiff N.N.'s proposed class notice, dkt. #37, is APPROVED. Plaintiff may send out the notices immediately. Plaintiff shall instruct potential class members to complete and return the information form to class counsel by September 21,

2009. The deadline for filing dispositive motions is extended to September 28, 2009.

Entered this 17th day of August, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge